

Application No.: 09/755,437

### **REMARKS**

The following claims are pending in the application: 8, 9, 12 – 18, 44 and 46 - 54

The following claims have been amended: 8, 44, 47

The following claims have been deleted: 46

The following claims have been added: 55 – 67

As a result of the foregoing Amendment, the following claims remain pending in the application: 8, 9, 12 – 18, 44, and 47 – 67.

### **The Rejection Under 35 U.S.C. §102(b)**

The Examiner rejects claims 8, 9, 13, 18, 47, 49 and 54 under 35 U.S.C. §102(b) as being anticipated by Weaver et al. In so rejecting, the Examiner takes the position that Weaver: (a) teaches an electrode having a surface treated with an electrochemically active material that is then connected to an electrical source to allow charged particles to adsorb onto the treated surface (col. 2, ll. 24 – 35); (b) teaches that the electrochemically active material extends out from the electrode in a substantially parallel manner (Figs. 1 and 2); teaches that a preferred material for the electrode is conductive carbon (col. 3, ll. 57 – 59); and teaches that quinone, i.e.,  $O=C_6H_4=O$ , is a suitable electrochemically active material (claim 1). The Examiner further takes the position that since all the bonds in quinone are conjugated, the bond through which it is attached to the surface must be conjugated.

Applicant has amended claim 8 to more accurately claim the subject matter of the present invention. Specifically, claim 8 now recites that the substrate is homogeneous. Accordingly, as Weaver cannot be said to teach a homogeneous substrate by its' recital

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of a silane linkage, Weaver cannot anticipate the present invention as currently claimed. Thus, Applicant respectfully submits that the outstanding rejection of claims 8, 9, 13, and 18 may be properly withdrawn.

Applicant has amended claim 47 to recite that the substrate consists of conductive carbon. Accordingly, as claim 47 no longer reads upon the silane layer the outstanding rejection of claims 47, 49, and 54 may be properly withdrawn.

The Rejection Under 35 U.S.C. §103(a)

The Examiner rejects claims 12, 15 – 17, 44, 46, 48, and 51 – 53 as being unpatentable over Weaver et al. (U.S. Pat. 5,208,154) in view of Wegner et al. (U.S. Pat. No. 4,828,917). In so rejecting, Examiner takes the position that Weaver et al. teaches all of the limitations of claims 12, 15 – 17, 44, 46, 48, and 51 - 53 as outlined above, except for requiring the substrate to have a roughness less than or equal to the average length of the electrochemically active material and less than 5  $\mu$ . The Examiner further takes the position that Wegner et al. discloses that when forming a monolayer on a substrate it is known to make the substrate smooth to allow for the formation of a well defined layer (col. 4, ll. 35 – 38). Thus, concludes the Examiner, one of ordinary skill in the art would be motivated to make the electrode surface of Weaver et al. as smooth as possible to ensure that the layer of electrochemically active material applied to the surface is well defined.

Applicant has amended claim 8 to recite that the substrate is homogeneous. Accordingly, as claim 8 no longer reads upon the silane layer the outstanding rejection of claims 12 and 15 – 17 may be properly withdrawn.

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Applicant has amended claim 47 to recite that the substrate consists of conductive carbon. Accordingly, as claim 47 no longer reads upon the silane layer the outstanding rejection of claims 48 and 51 – 53 may be properly withdrawn.

Double Patenting Rejection

The Examiner rejects claims 8, 9, 12 – 18, 44, and 46 – 54 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7 – 11, 16, 22 – 30, and 56 – 58 of U.S. Pat. No. 6,855,950.

Applicant has included herewith a terminal disclaimer thereby rendering the Examiner's outstanding rejection moot.

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**CONCLUSION**

In view of the foregoing amendment and accompanying remarks, the Applicants respectfully submit that the present application is properly in condition for allowance and may be passed to issuance upon payment of the appropriate fees.


Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the subject application is respectfully encouraged.

Respectfully submitted,

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Date: November 21, 2005

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